



DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

[NPS-PIRO-32442; PPMWPIRON0 PPMRSNR1Z.Y00000 200P103601]

RIN 1024-AE53

Pictured Rocks National Lakeshore; Snowmobiles

AGENCY: National Park Service, Interior.

ACTION: Final rule.

SUMMARY: The National Park Service amends its special regulations for Pictured Rocks National Lakeshore to clarify where snowmobiles may be used within the boundaries of the Lakeshore by naming several snowmobile routes that are not currently identified. The rule replaces general language allowing snowmobiles on unplowed roads and the shoulders of plowed roads with a comprehensive list of designated snowmobile routes. The changes will provide greater certainty to the public by removing ambiguity in the current regulations about where snowmobiles are allowed. The use of snowmobiles within areas of the National Park System is prohibited except on routes and water surfaces designated by special regulation.

DATES: This rule is effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: The comments received on the proposed rule are available on <http://www.regulations.gov> in Docket ID: NPS-2020-0005.

FOR FURTHER INFORMATION CONTACT: David Horne, Superintendent, Pictured Rocks National Lakeshore, (906) 387-2607 ext. 1202, david_horne@nps.gov.

SUPPLEMENTARY INFORMATION:

Background.

Significance of the Lakeshore.

Colorful sandstone cliffs tower 50 to 200 feet above the vast and glistening fresh water of Lake Superior. Deep shoreline forests open onto sparking inland lakes, gurgling streams, and waterfalls. Sand dunes perch atop miles of high sand bluffs and unspoiled beaches. Beaver-chewed tree stumps, a raven's nest balanced high on a rocky ledge, and cloven deer tracks imprinted in the mud hint at the abundance of wildlife that inhabit the beautiful and diverse landscape. These features create the spectacular setting that is Pictured Rocks National Lakeshore. Congress established this location as the country's first national lakeshore in 1966 to preserve the shoreline, cliffs, beaches, and dunes, and to provide an extraordinary place for recreation and discovery. Little more than 6 miles across at its widest point, the Lakeshore hugs Lake Superior's shoreline for nearly 40 miles. The Lakeshore consists of two zones: the Lakeshore Zone, federal land managed by the National Park Service (NPS); and the Inland Buffer Zone, a mixture of federal, state, and private land. Together these zones encompass nearly 73,000 acres of protected land and water that stretch from Munising to Grand Marais, Michigan. Attractions at the Lakeshore include a lighthouse and former Coast Guard stations, along with old farmsteads and orchards. The Lakeshore is a year-round recreational destination where hiking, camping, hunting, nature study, and winter activities abound.

NPS Management Authority over Snowmobile Use.

The NPS manages the Lakeshore under the NPS Organic Act (54 U.S.C. 100101 *et seq.*), which gives the NPS broad authority to regulate the use of the lands and waters under its jurisdiction. The Organic Act authorizes the Secretary of the Interior, acting through the NPS, to "make and publish such regulations the Secretary considers necessary or proper for the use and management of [National Park] System units." In the Lakeshore's enabling act, Congress directed the Secretary of the Interior, acting through the NPS, to preserve the Lakeshore for the benefit, inspiration, education, recreational

use, and enjoyment of the public. 16 U.S.C. 460s.

Executive Order 11644, “Use of Off-Road Vehicles on the Public Lands,” issued in 1972 and amended by Executive Order 11989 in 1977, requires federal agencies to issue regulations for the designation of specific areas and routes on public lands where off-road vehicles, including snowmobiles, may be used. The NPS implemented the Executive Order as it relates to snowmobiles in 36 CFR 2.18. Under 36 CFR 2.18(c), the use of snowmobiles is prohibited, except on designated routes and water surfaces used by motor vehicles or motorboats during other seasons. These routes and water surfaces must be designated by special regulation and only when their use is consistent with the park's natural, cultural, scenic and aesthetic values; safety considerations; and park management objectives; and will not disturb wildlife or damage park resources.

Management of Snowmobiles at the Lakeshore.

Snowmobiling is a popular activity in and around the Lakeshore. In the winter, a number of unplowed roads lead to major points of interest, particularly the rock formations at Miners Castle and the tall dunes at Log Slide. Existing special regulations for the Lakeshore at 36 CFR 7.32 allow snowmobiles on the frozen waters of Lake Superior and Grand Sable Lake. They also state that snowmobiles are allowed on the major visitor use roads that are unplowed, or on road shoulders of plowed roads. Snowmobiles are prohibited elsewhere in the Lakeshore, including cross-country travel and travel on non-motorized trails. After this general statement about where snowmobiles are allowed in the Lakeshore, the special regulations list nine “designated snowmobile routes” that are roads used by motor vehicles during other seasons.

In 2018, the NPS met with the Alger Road County Commission about rerouting a snowmobile route from an unplowed, paved county road (County Highway H-58) to an unplowed, scenic dirt road, part of which runs through the Lakeshore. During this meeting, the NPS recognized that although there is a general designation in the special

regulations allowing snowmobiles on all unplowed roads within the Lakeshore, the rerouted trail was not on the list of designated snowmobile routes. This led to a discussion about whether the special regulations for the Lakeshore could be revised to identify, for the benefit of the public, each route within the Lakeshore where snowmobiles are allowed. This would remove ambiguity in the existing regulations about whether snowmobiles are allowed on unplowed roads or the shoulders of plowed roads that are not identified in the list of “designated snowmobile routes.” This would also bring the special regulations for the Lakeshore into full compliance with 36 CFR 2.18, which requires that snowmobiles routes be promulgated as special regulations. Clarifying where snowmobiles are allowed would have the added benefit of making it easier for NPS law enforcement officers to enforce the prohibition of snowmobile use off designated routes. This would help the NPS meet its statutory mandates to preserve the resources of the Lakeshore.

Final Rule.

This rule revises the special regulations for the Lakeshore at 36 CFR 7.32 to identify all routes and water surfaces within the Lakeshore where snowmobiles may be used. Some of these routes are already identified in the special regulations in paragraphs (a)(1)(i)-(ix) and remain as designated routes. Other routes are not identified in the special regulations and are added in paragraphs (a)(1)(x)-(xv). All designated routes are roads used by motor vehicles during other seasons. If a route is plowed, the rule limits snowmobiles to road shoulders consistent with existing regulations. The rule continues to identify the frozen waters of Lake Superior and Grand Sable Lake as open to snowmobiles, redesignating paragraph (a)(1)(x) as (a)(1)(xvi). These waters are open to motorboats during other seasons.

The rule removes the general designation of all unplowed roads and shoulders of plowed roads to make it clear that if a location is not on the list of designated routes and

water surfaces, snowmobiles are prohibited. The NPS does not expect these changes to affect visitor use patterns within the Lakeshore because the NPS already allows snowmobiles on the unplowed roads and shoulders of plowed roads consistent with the general designation in the special regulations. The public may become aware of legal snowmobile routes that are not listed in the existing special regulations which could lead to increased recreation and access. On the other hand, the public may become aware that snowmobiles are not allowed in locations where before it had been unclear. The NPS expects these circumstances to be exceptional and not notable consequences of the rule. The goal of the changes is to provide the public with simple and easy-to-understand rules about snowmobile use that minimize the potential for uncertainty.

The rule also states that the Superintendent may open or close designated routes and water surfaces, or portions thereof, to snowmobile travel after taking into consideration the location of wintering wildlife, appropriate snow cover, public safety, and other factors. The rule requires the Superintendent to notify the public of any such actions using one or more of the methods in 36 CFR 1.7(a).

Finally, the rule makes minor changes to the descriptions of three routes that are already designated in the special regulations. In paragraph (a)(1)(v), the rule fixes a typo by replacing the term “Country Road” with the term “County Road.” In paragraphs (a)(1)(viii) and (a)(1)(ix), the rule clarifies that the designated roads no longer go directly to the Log Slide, and instead terminate at the Log Slide parking area.

Summary of Public Comments

The NPS published a proposed rule in the *Federal Register* on November 6, 2020 (85 FR 71017) and accepted comments through the mail, by hand delivery, and through the Federal eRulemaking Portal at <http://www.regulations.gov>. The comment period closed on January 5, 2021. The NPS received four comments on the proposed rule. Below are summaries of the pertinent issues raised in the comments and responses from

the NPS. After considering the public comments and after additional review, the NPS did not make any changes to the proposed rule.

1. Comment: Several commenters raised concerns about the impacts of snowmobile use on wildlife, undersnow plants, and other park visitors.

NPS Response: This rule does not change where snowmobiles are allowed within the Lakeshore. It clarifies where snowmobiles are already allowed by identifying each legal snowmobile route within the Lakeshore. This replaces the existing regulations which have an incomplete list of snowmobile routes coupled with a general statement allowing snowmobiles on unplowed roads and shoulders of plowed roads. The NPS did not evaluate the impacts of snowmobile use on resources and visitors in connection with this rule because the rule does not change the allowed level of use.

Visitors use the Lakeshore for a variety of recreational experiences. Snowmobiling on designated routes will not prevent access to the Lakeshore for other recreational uses including backcountry skiing, camping, snowshoeing, and wildlife viewing. The NPS believes that visitors should have the opportunity to experience the unique resources and values for which the Lakeshore was established during the winter season. Snowmobiles provide visitors with an efficient means of winter transport onto and through the park. Some form of over-snow travel is necessary to allow visitors to access areas of the park that cannot reasonably be reached using non-motorized means of transportation. Restricting snowmobile travel to designated routes confines potential wildlife disturbance and resource impacts to specific corridors. This rule gives the Superintendent the authority to open or close routes and water surfaces, or portions thereof, to snowmobile travel after taking into consideration the location of wintering wildlife, appropriate snow cover, public safety, and other factors.

2. Comment: One commenter called for a complete ban on snowmobiles in the Lakeshore.

Response: Much of the snowmobile use within the boundaries of the Lakeshore occurs on roads that are not under NPS jurisdiction but do provide access to routes on NPS-administered land. The routes not under NPS jurisdiction include but are not limited to H-58, Miners Castle Road, and Chapel Road. The Lakeshore has approximately 17 miles of designated routes under its jurisdiction. There are about 50 miles of snowmobile roads within the boundaries of the Lakeshore that are not under NPS jurisdiction. Banning snowmobile use on NPS-administered land would make the contiguous use of snowmobile routes within the boundaries of the Lakeshore impossible.

The NPS has managed snowmobile use in the Lakeshore for several decades. Snowmobiles have been an integral part of the winter experience at the Lakeshore since they first entered in 1982. At that time, the NPS prepared an Environmental Assessment and a Determination of Effects of Rules. These documents concluded that snowmobile use at the Lakeshore is consistent with the Lakeshore's natural, cultural, scenic, and aesthetic values, safety considerations, and management objectives, and will not disturb wildlife or damage national lakeshore resources. This determination was affirmed in 2004 when the NPS released the current General Management Plan for the Lakeshore. The document can be found online at <https://www.nps.gov/piro/learn/management/gmp.htm>.

Compliance with Other Laws, Executive Orders and Department Policy.

Regulatory Planning and Review (Executive Orders 12866 and 13563).

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget will review all significant rules. The Office of Information and Regulatory Affairs has determined that this rule is not a significant regulatory action as defined by Executive Order 12866.

Executive Order 13563 reaffirms the principles of Executive Order 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for

achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. Executive Order 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. The NPS has developed this rule in a manner consistent with these requirements.

Regulatory Flexibility Act.

The rule modifies special regulations for the Lakeshore to designate snowmobile routes on roads and water surfaces that are used by motor vehicles or motorboats during other seasons. For the reasons explained above, the rule is administrative in nature and not expected to change visitor use patterns at the Lakeshore because the NPS would not be allowing any new uses. The costs and benefits of a regulatory action are measured with respect to its existing baseline conditions. No changes are anticipated compared to baseline conditions because this regulatory action is administrative in nature with the intent to clarify existing regulations. In addition, this action will not impose restrictions on local businesses in the form of fees, training, record keeping, or other measures that would increase costs. Given those findings, this regulatory action will not impose a significant economic impact on a substantial number of small entities.

Congressional Review Act (CRA).

This rule is not a major rule under 5 U.S.C. 804(2), the CRA. This rule:

- (a) Does not have an annual effect on the economy of \$100 million or more.
- (b) Will not cause a major increase in costs or prices for consumers, individual industries, federal, State, or local government agencies, or geographic regions.
- (c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete

with foreign-based enterprises.

Unfunded Mandates Reform Act.

This rule will not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than \$100 million per year. The rule will not have a significant or unique effect on State, local or tribal governments or the private sector. It addresses public use of national park lands, and imposes no requirements on other agencies or governments. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

Takings (Executive Order 12630).

This rule will not effect a taking of private property or otherwise have takings implications under Executive Order 12630. A takings implication assessment is not required.

Federalism (Executive Order 13132).

Under the criteria in section 1 of Executive Order 13132, the rule will not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement. This rule only affects use of federally-administered lands and waters. It has no outside effects on other areas. A federalism summary impact statement is not required.

Civil Justice Reform (Executive Order 12988).

This rule complies with the requirements of Executive Order 12988. This rule:

- (a) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and
- (b) Meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

Consultation with Indian tribes (Executive Order 13175 and Department Policy).

The Department of the Interior strives to strengthen its government-to-

government relationship with Indian Tribes through a commitment to consultation with Indian tribes and recognition of their right to self-governance and tribal sovereignty. The NPS has evaluated this rule under the criteria in Executive Order 13175 and under the Department's tribal consultation policy and has determined that tribal consultation is not required because the rule will have no substantial direct effect on federally recognized Indian tribes.

Paperwork Reduction Act.

This rule does not contain information collection requirements, and a submission to the Office of Management and Budget under the Paperwork Reduction Act is not required. The NPS may not conduct or sponsor and the public is not required to respond to a collection of information unless it displays a currently valid OMB control number.

National Environmental Policy Act.

This rule does not constitute a major federal action significantly affecting the quality of the human environment. A detailed statement under the National Environmental Policy Act of 1969 (NEPA) is not required because the rule is covered by a categorical exclusion. The NPS has determined the rule is categorically excluded under NPS NEPA Handbook 2015 Section 3.3(A)(8) because this rule revises existing regulations for the Lakeshore in a manner that would not (i) increase public use to the extent of compromising the nature and character of the area or causing physical damage to it; (ii) introduce noncompatible uses that might compromise the nature and characteristics of the area or cause physical damage to it; (iii) conflict with adjacent ownerships or land uses; or (iv) cause a nuisance to adjacent owners or occupants. The rule does not change the allowed level of snowmobile use at the Lakeshore. It clarifies where snowmobiles are already allowed by replacing an incomplete list of routes and a general statement allowing snowmobiles on unplowed roads and shoulders of plowed roads with a comprehensive list of legal snowmobiles routes. The NPS has also

determined that the rule does not involve any of the extraordinary circumstances listed in 43 CFR 46.215 that would require further analysis under NEPA.

Effects on the Energy Supply (Executive Order 13211).

This rule is not a significant energy action under the definition in Executive Order 13211. The rule is not likely to have a significant adverse effect on the supply, distribution, or use of energy, and the Administrator of OIRA has not designated the rule as a significant energy action. A Statement of Energy Effects is not required.

List of Subjects in 36 CFR Part 7

District of Columbia, National Parks, Reporting and recordkeeping requirements.

In consideration of the foregoing, the National Park Service amends 36 CFR part 7 as follows:

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

1. The authority for part 7 continues to read as follows:

Authority: 54 U.S.C. 100101, 100751, 320102; Sec. 7.96 also issued under D.C. Code 10-137 and D.C. Code 50-2201.07.

2. Amend §7.32 by:

- a. Revising paragraph (a)(1) introductory text and paragraphs (a)(1)(v), (viii), and (ix);
- b. Redesignating paragraph (a)(1)(x) as paragraph (a)(1)(xvi);
- c. Adding new paragraph (a)(1)(x) and paragraphs (a)(1)(xi) through (xv);
- d. Revising newly redesignated paragraph (a)(1)(xvi);
- e. Revising paragraph (a)(3); and
- f. Adding paragraph (a)(4).

The revisions and additions to read as follows:

§ 7.32 Pictured Rocks National Lakeshore.

(a) * * *

(1) Snowmobiles are allowed on the following routes and water surfaces within
Pictured Rocks National Lakeshore:

* * * * *

(v) The road from County Road H-58 at the park boundary to the Little Beaver
Lake Campground.

* * * * *

(viii) The road from County Road H-58 to the Log Slide parking area.

(ix) The section of Michigan Dimension Road from the park boundary to the Log
Slide parking area.

(x) The South Grand Sable Lake Road, starting at Towes Creek (T49N, R14W,
Sections 14 and 23), heading south in and out of the fee zone area.

(xi) Portions of County Road H-58 that are within park boundaries between
Twelvemile Beach and Log Slide scenic overlook (T49N, R15W, Sections 9, 10, 11, 13,
14, and 16 and T49, 14W, Section 18).

(xii) Portions of County Road H-58 that are within park boundaries between Log
Slide Scenic Overlook and the Grand Sable Visitor Center (T49N, R14W, Sections 10,
11, 15, 16, and 17).

(xiii) County Road H-58 between Grand Sable Visitor Center to the eastern extent
of the park boundary (T49N, R14W, Sections 1, 11, and 12).

(xiv) Portions of Lowder Road that are within park boundaries from M77 to
Grand Sable Lake Boat Ramp (T48N, R16W, Sections 21 and 29).

(xv) Portions of Beaver Basin Overlook Road from County Road H-58 to the
Beaver Basin Overlook (T49N, R14W, Sections 11, and 12).

(xvi) The frozen water surfaces of Lake Superior and Grand Sable Lake.

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(3) Snowmobile use outside designated routes and frozen water surfaces is prohibited. Snowmobiles are restricted to the road shoulders of routes that are plowed. The prohibitions in this paragraph do not apply to emergency administrative travel by employees of the National Park Service or law enforcement agencies.

(4) The Superintendent may open or close these routes and water surfaces, or portions thereof, to snowmobile travel after taking into consideration the location of wintering wildlife, appropriate snow cover, public safety, and other factors. The Superintendent will provide notice of such opening or closing by one or more of the methods listed in § 1.7(a) of this chapter.

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Shannon A. Estenoz
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for Fish and Wildlife and Parks
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